

Nov 8, 2010 3:05 pm

Subject: Fwd: Please vote no on SB 1560

To the members of the 2009-2010 Michigan Senate Judiciary Committee: Senators Wayne Kuipers, Alan Cropsey, Alan Sanborn, Bruce Patterson, Gretchen Whitmer, Hansen Clarke, Raymond Basham.

Dear Sirs and Madam:

I write to express my extreme concern at SB 1560, for several reasons. There is widespread agreement that registration and public notification have enormously destructive effects upon the lives of registrants, many of whom pose no discernible danger. Those grounds give legitimacy to a statute that, unlike Adam Walsh, is risk based.

While SB 1560 purports to comply with the Adam Walsh Act, its punitive aspects go far beyond AW's basic requirements. AW does not require persons to register for consensual underage sex if the parties are within 4 years of one another's ages. Rather, it leaves registration for persons within that age spectrum to the discretion of the States. Considering the obviously destructive effects upon an individual's life and the expenditure of needless police time on non dangerous persons, many police agencies - among others - agree that registration should be required only when necessary for public safety or when required by federal law.

(<http://michiganmessenger.com/36808/arrest-points-to-weaknesses-of-sex-offender-registry-in-michigan>).

In all candor, Michigan has a large number of registrants for the size of its population. This is partially due to the fact that Michigan requires persons to register, even if they were youthful at the time and their cases were dismissed under HYTA. This policy places Michigan youth at an extreme disadvantage in comparison to similarly situated persons in other jurisdictions. In *State v Diapiazza*, the Michigan Court of Appeals found that the registration requirement constituted cruel and unusual punishment, for a case dismissed pursuant to HYTA, without a finding of guilt. The court specifically noted the arbitrary difference accorded persons, whose matters occurred prior to October 2004 and were required to register for 25 years, and those after that date, who were exempted from registration. The court recognized that this difference in treatment underscored the cruelty of the registration provision relative to pre October 2004 HYTA persons.

Even though the court found registration an extreme punishment for HYTA persons, such as Diapiazza, SB 1560 unreasonably proposes to bridge this unconscionable difference by requiring pre October 2004 and post October 2004 persons to register for life. This is an anomaly since many Michigan cities spend time and scarce funds to find ways to admit prior "felons" (persons for whom adjudications of guilt were actually entered) into full participation in the community's social and economic life. It is also anomalous for reasons that the Diapiazza panel set forth, with regard to trends in other States. Further, the *Ex Post Facto* reduction of registrants' rights creates an unsettling effect upon the law and raises major Constitutional issues. Unlike risk-based classifications that may truly be designed to protect the community, statute-based schemes are absolutely punitive. SB 1560 may also pave the way for court costs and attorneys' fees.

My son made an awful mistake in consensual sex with a girl only slightly younger than he was, a girl whose age easily fell within the four year age span that AW leaves to a State's discretion. Since that time, he achieved a complete turn-around in his life and established himself as an accomplished person who can be a tax paying, contributing member of society, who can raise a family and be a respected member of the overall community. He is attending a well established university and has a stable relationship with a young woman, whom he would hopefully be able to marry without a needless cloud over his head and, by implication, those of any future family

members. Although silent, there are surely many other young adults such as he among this group. The Court of Appeals is apparently aware of this, since *Diapiazza* specifically noted, on p. 6, that the court previously called upon the legislature to reconsider those burdens for youthful registrants. Any amendments should assure that our HYTA persons not needlessly suffer the harshness of AW's registry burdens. The Court of Appeal's reasoning is consistent with trends in other States, good for the commerce of this State, and for young people who would like to contribute constructively to their communities.

With regard to HYTA, the law's primary purpose has been to redeem young people, not to discard them onto the ever mounting industrial scrap heap. I respectfully ask that you vote no on SB 1560, since it lacks even rudimentary fairness to HYTA registrants, many of whom turned their lives around and are prepared to lead stable lives in marriage, in parenthood, and business and to share fully in the citizenship responsibilities of their State and this great nation.

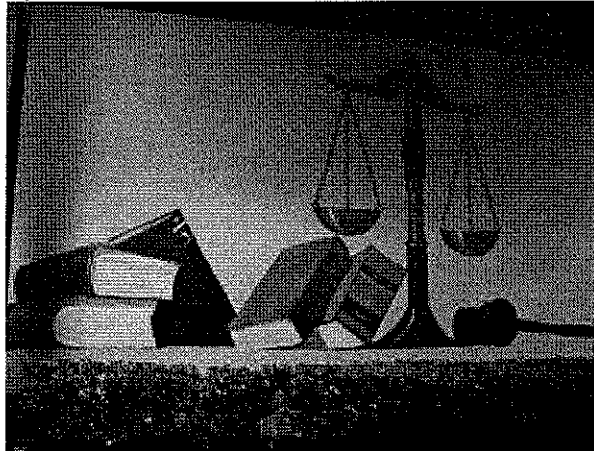
Thank you,
Errol

(Copied from the Michigan Messenger)

Arrest points to weaknesses of sex offender registry in Michigan

Legislation may fix those deficiencies later this year

By Todd A. Heywood 4/15/10 12:14 PM [DIGG](#) [TWEET](#)



(Creative Commons photo by Srqpix via Flickr)

LANSING — The arrest of Adrian Hill, a man who had evaded authorities for the last three years and was one of the Lansing Police Department's most wanted fugitives, has shed new light on what policy makers and law enforcement say are significant problems with the state's sex offender registry.

Hill was convicted in 2005 of accosting a minor for immoral purposes and was ordered to register as a sex offender until 2030, but had stopped doing so in 2007. As reported last week, Hill was preparing to use a Lansing community center which caters to some of the city's most vulnerable youth to host a 'feed the homeless' event when a Michigan Messenger investigation led to his arrest.

Hill's plans to use the community center raised concern for city of Lansing officials, and has prompted them to look at the possibility of having anyone who applies for the use of city facilities cross checked against the sex offender list.

But as Capt. Ray Hall of the Lansing Police Department cautioned last week, that list is not a very useful tool as currently configured.

While the online list does allow civilians to see who is and is not on the list, officials say that the lack of specific information related to sex offenders and their offenses makes the list virtually useless for someone seeking to discern the truly dangerous from the rest of the bunch.

Many people on the list are there for non-predatory crimes, such as urinating in public or Romeo and Juliet relationships — those where one partner is three years older than a minor, say an 18 year old and a 15 year old. State Rep. Rebekkah Warren (D-Ann Arbor), chair of the House Judiciary Committee on the Sex Offender Registry, says grouping such people along with pedophiles and rapists what amounts to “ruining” someone’s life.

Those problems, state lawmakers tell Michigan Messenger, are the target of planned reform legislation they expect to be introduced and passed in the state legislature by the end of the year. Many of those reforms were mandated by the passage in 2006 of the Adam Walsh Act.

The state was supposed to be compliant by the end of 2008 or lose 10 percent of federal Department of Justice money to the state. State officials decided to accept that punishment last year because implementation of the requirements under the act would cost more than the state would bring in from the grants, says Warren. But the game has changed with more federal cash available through the American Recovery and Reinvestment Act (ARRA), and Warren says the state can’t afford to accept reductions in federal cash.

But lawmakers on both sides of the aisle agree that the sex offender registry is broken and that changes need to be made.

“Our list is pretty expansive and I think ... it’s a list that tells us who and when, not necessarily what, but it’s a list that’s more inclusive than most other states,” says Sen. Wayne Kuipers, a Republican from Holland who chairs the Senate Judiciary Committee. “We allow ourselves a better working document if we change who’s included on the list and get at the people we should be really fearful of — the predator type sex offender. If we can figure out a way to pare it down to those types of criminals I think the list will be more meaningful and people will be able to have confidence in the list.”

“The public policy purpose of this tool was to give folks some sense of who in their area, in their neighborhood, in their state were folks that were dangerous,” says Rep. Rebekkah Warren. She chairs a House Judiciary Committee dedicated to the sex offender registry and reforms. “A lot of those folks who urinated in public, or had sex with their high school girlfriend, who now have married and have children with them and have become valuable contributors to our economy and our society, those folks being on the list means that when you check the list... it’s astonishing. You pull up all these people. That’s one of the things we want to look at — who needs to be on that list.”

According to guidelines published by the U.S. Department of Justice, required reforms to the Sex Offender Registry include a three-tiered system which will more readily identify dangerous offenders, while suggested reforms include collection and publication of online identities and aliases of offenders, and the publication of information about the specifics of a crime for which an offender is listed.

Those reforms would make the list more useful, says Jackson Chief of Police Matt Heins.

"I think the more information you provide to the general public, the better off the community is served by providing that information," says Heins, whose department monitors an estimated 330 offenders. "And, of course it's always a fine balance between an individual's rights to privacy versus what you can make public, provide to the public regarding cases. That will always be a balancing act."

Warren said she supports such changes.

"If we're going to give people a sentence that is really going to, in some ways, ruin their life, we need to make sure we are deliberative about that. And we need to take the time now to ask if everybody on this list belongs on the list," Warren says. "We need to make it as useful a tool as it possibly can be and we will all be better off."

The registry ended up listing juveniles or folks convicted of public urination crimes because of the passage of Megan's Law. That was the first federal law mandating the development and publishing of public sex offender lists. Michigan, Warren says, had for years collected such information in a private, law enforcement-only list. After the passage of Megan's Law, the state simply "dumped" its entire list into a public registry.

"When Megan's law first went into effect, and states had to put that in a public way on the internet, instead of reviewing what our policies had been or looking at the list to see who should be in the public eye — so to speak — we just dumped the whole list into the public eye," Warren says. "We have people on the registry that in many other states, and now under the Adam Walsh Act — under the federal law — would not have to register and would not have to be on the public list."

Lansing officials say those reforms can't come fast enough, and take issue with the legislature's delaying the changes.

"The rationale is to do nothing because we're already not complying? So, there's no point in making an attempt to make things safer?" asks Carol Wood, a Lansing city council member, responding to the delay in complying with the Adam Walsh law last year. "For the legislature to have a blind eye and closed ear response to the cries of our children is not acceptable."

Wood chairs the city's Public Safety Committee. On Tuesday, that committee directed the Office of the City Attorney to begin developing a policy review on how to prevent sex offenders who might pose a risk to children from gaining access to the city's community center — which will be both more fair and more effective after the proposed reforms are in place.